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COMMONWEALTH OF PENNSYLVANIA

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JUL 24 2000

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July 21, 2000

Magalie Roman Salas  
Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S. W.  
Washington, DC 20554

RE: Comment Sought on Remand of the  
Commission's Reciprocal Compensation  
Declaratory Ruling By the U.S. Circuit Court of  
Appeals for the D.C. Circuit  
CC Docket Nos. 96-98, 99-68  
FCC 00-227

Dear Ms. Salas:

Enclosed please find an original and four copies of Comments of the  
Pennsylvania Office of Consumer Advocate in the above-referenced matter. Please also note  
that these Comments have been filed with the Commission electronically.

Please indicate your receipt of this filing on the additional copy provided and  
return it to the undersigned in the enclosed self-addressed, postage prepaid, envelope. Thank  
you.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Joel H. Cheskis".

Joel H. Cheskis  
Assistant Consumer Advocate

Enclosure

cc: International Transcription Services

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION**

<b>Comment Sought on Remand of the</b>	<b>:</b>	<b>CC Docket Nos. 96-98, 99-68</b>
<b>Commission's Reciprocal Compensation</b>	<b>:</b>	
<b>Declaratory Ruling By the U.S. Circuit</b>	<b>:</b>	<b>FCC 00-227</b>
<b>Court of Appeals for the D.C. Circuit</b>	<b>:</b>	

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**COMMENTS OF THE  
PENNSYLVANIA OFFICE OF CONSUMER ADVOCATE**

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**I. INTRODUCTION**

The Pennsylvania Office of Consumer Advocate ("OCA") hereby submits these Comments in response to the above-captioned Public Notice released by the Federal Communications Commission ("FCC") on June 23, 2000. The OCA is designated by Pennsylvania state law to represent public utility ratepayers before the Pennsylvania Public Utility Commission ("PA PUC"), federal agencies and state and federal courts. The OCA is actively involved in representing consumer interests in telecommunications issues in these venues and is, therefore, familiar with the issues contained in this Public Notice. Through this Public Notice, the FCC requests information regarding, *inter alia*, the jurisdictional nature of ISP-bound traffic, the scope of the reciprocal compensation requirement of Section 251(b)(5) and any new or innovative inter-carrier compensation arrangements for ISP-bound traffic that parties may be considering or may have entered into, either voluntarily or at the direction of a state commission. Public Notice, at 2. The OCA has no comment on many of the technical issues concerning ISP-bound traffic. However, the OCA files these Comments to submit that local ISP-bound traffic should remain a local (ie, non-toll) call for consumers.

In particular, the OCA submits that the Internet has become an extremely useful telecommunications service to consumers. As stated below, if Internet access

through local calling were eliminated, consumers would lose much of the benefits of Internet access which they now enjoy. The OCA encourages the FCC not to take any action which would cause this benefit to be lost or jeopardized. The OCA supports the ability of consumers to reach local ISPs through local calling. Establishing that local ISP calls are toll calls would make Internet service much less affordable to the ordinary consumer. The FCC should not deny consumers such a benefit by establishing, either directly or indirectly, that calls to ISPs with telephone numbers in the local calling area are non-local calls.

## II. COMMENTS

A. The FCC Should Take No Action Which Would Suggest that Local Calls to ISPs are Toll Calls.

The OCA encourages the Commission to take no action in this investigation which would suggest that calls made to an ISP with a telephone number in the local calling area would be considered as non-local or toll calls. If such action were taken, the door may be opened for a Local Exchange Carrier ("LEC") to attempt to apply toll charges when a consumer dials an ISP at a telephone number that has been assigned to the local rate area. In Pennsylvania, the PA PUC recognized the importance of determining that an ISP call was local as follows:

This is a matter of grave policy concern in Pennsylvania. This Commission must resolve this fundamental policy question or risk placing Pennsylvania in the break-down lane on the information superhighway. For one thing, if Internet traffic calls are **not** considered local, consumers, students, and educators may wind up paying per-minute-of-use charges for Internet access. On the other hand, if Internet traffic and calls **are** considered local, consumers, students, and educators can access the information superhighway on a basis other than by per-minute-of-use charges on the Internet.

Investigation of Issuance of Local Telephone Numbers to Internet Service Providers by Competitive Local Exchange Carriers, Opinion and Order, Docket Nos. P-00981404 and P-00971256 (entered September 2, 1998) at 3. The PA PUC is correct in concluding that determining Internet calls as non-local would place all Pennsylvanians at a disadvantage with regard to that increasingly valuable telecommunications service. Id. Thus, the PA PUC has properly recognized the need to ensure that Internet calls are local in order to make certain that Internet benefits are secured for all consumers. For this and other reasons, the FCC should make very clear that calls to an ISP using local telephone numbers are local and no toll charges should be applied.

The OCA also emphasizes that having local access to the Internet provides a great benefit to consumers and is extremely important. The Internet provides a vast information resource to consumers wherever an ISP can be called locally. However, if toll charges are applied to such calling, Internet access would fall outside of the economic reach of many consumers.

The importance of the Internet is clear simply from considering the amount of consumers using the Internet. Internet usage grew to 50 million consumers in only five years, although it took 80 years for the landline telephone business to reach 50 million consumers.<sup>1</sup> A 1998 study determined that Internet traffic is 50% of all data traffic and Internet traffic is doubling every four months.<sup>2</sup> Furthermore, it is currently estimated that there are 2.1 billion unique, publicly available pages on the Internet and that 7 million are added each day.<sup>3</sup> This clearly reflects the fact that consumers find access to the Internet an important service. Local access to the Internet through local

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<sup>1</sup> Ivan Seidenberg, Bell Atlantic, currently Vice Chairman, President and Chief Executive Officer, speech to the Massachusetts Software Council at 2, April 24, 1998, accessible at [www.ba.com/speeches/1998/Apr/19980427001.html](http://www.ba.com/speeches/1998/Apr/19980427001.html).

<sup>2</sup> Id.

<sup>3</sup> "Internet Exceeds 2 Billion Pages." Cyveillance, July 10, 2000, [www.cyveillance.com/newsroom/pressr/000710.asp](http://www.cyveillance.com/newsroom/pressr/000710.asp).

ISP's allows consumers to reach a vast source of information - even if they are located in remote localities.<sup>4</sup> Therefore, the OCA submits that the FCC should make very clear that calls to an ISP using local telephone numbers are local and no toll charges should be applied.

B. Determining that Calls to ISPs Are Not Local Would Harm the Efforts of Schools, Libraries and Health Care Providers to Use the Internet to Provide Public Benefits.

The OCA emphasizes that local calling to the Internet is not only an important benefit to individual consumers, but also is a great benefit to the schools, libraries and health care providers that serve these consumers and offer Internet access to do so. If reaching the Internet required a toll call, schools, libraries and health care providers would have the cost of such Internet access raised as well.

The benefit of local Internet calling has also been recognized through the Telecommunications Act of 1996 ("1996 Act"), where Congress required federal universal service support to be given to schools to offset the cost of information services, such as the Internet. Notably, the 1996 Act required the FCC "to enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for all public and non-profit elementary and secondary school classrooms, health care providers, and libraries . . . ." 47 U.S.C. § 254(h)(2)(A). The FCC explained the importance of this provision by citing the Congressional history of the 1996 Act as follows:

The provision of subsection [254] (h) will help open new worlds of knowledge, learning and education to all Americans -- rich and poor, rural and urban. They are intended, for example, to provide the

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<sup>4</sup> Ray Smith, Bell Atlantic, Chairman, speech to the Camden Conference on Telecommunications - Camden, Maine at 1, October 24, 1997, accessible at [www.ba.com/speeches/1997/Oct/19971031001.html](http://www.ba.com/speeches/1997/Oct/19971031001.html), explained a similar point as follows: "The point I'm trying to get across is simply this -- in today's information age, geography is no longer destiny."

ability to browse library collections, review the collection of museums, or find new information on the treatment of illness, to Americans everywhere via schools and libraries. This universal access will assure that no one is barred from benefiting from the power of the Information Age.

In the Matter of Federal-State Joint Board on Universal Service, Report and Order, CC Docket No. 96-45, May 8, 1997 at ¶ 426 n.1092 citing the Congressional Joint Explanatory Statement at 132-33. The FCC determined that Internet access, and telecommunications services used to reach the Internet, would qualify for receiving support from the federal universal service fund. *Id.* at ¶ 425. Accordingly, the FCC is now collecting contributions from the telecommunications industry and using these funds to offset the cost of Internet access for eligible schools, libraries and health care providers.

If the Commission were to classify ISP-bound calls as non-local - or toll - the required universal service support would grow as a result. Such a result would increase the cost of reaching the Internet for schools, libraries and health care providers, place greater stress on the federal universal service fund, as well as the non-funded portion of Internet services that schools, libraries, and health care providers must still pay. In short, determining calls to local ISP's as non-local would raise the cost to public institutions of purchasing Internet services and increase the required federal support. Therefore, the OCA submits that the FCC should make very clear that calls to an ISP using local telephone numbers are local and no toll charges should be applied.

### III. CONCLUSION

WHEREFORE, the Pennsylvania Office of Consumer Advocate respectfully requests that the Federal Communications Commission take no action which would suggest that local calls to internet service providers are non-local or toll calls.

Respectfully submitted,



Philip F. McClelland  
Senior Assistant Consumer Advocate  
Joel H. Cheskis  
Assistant Consumer Advocate

For: Irwin A. Popowsky  
Consumer Advocate

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Date: July 21, 2000

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Declaratory Ruling By the U.S. Circuit	:	FCC 00-227
Court of Appeals for the D.C. Circuit	:	

I hereby certify that I have this day served a true copy of the foregoing document, ..

Comments of the Pennsylvania Office of Consumer Advocate, upon parties of record in this proceeding.

Dated this 21st day of July, 2000.

Respectfully submitted,

  
\_\_\_\_\_  
Joel H. Cheskis  
Assistant Consumer Advocate

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